

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**FRANCISCO YVANEZ DIAZ,**

Defendant.

---

**Cr. No. 6:07-CR-60038-02-MC**

OPINION and ORDER

MCSHANE, Judge:

Defendant's Motion to Reduce Sentence (ECF No. 97) is DENIED for the following reasons.

Defendant Francisco Yvanez Diaz filed this Motion to Reduce Sentence pursuant to 18 U.S.C. § 3582(c)(2) and based on the United States Sentencing Guidelines (U.S.S.G.) Amendment 782. (ECF No. 97). Assistant United States Attorney Frank Papagni, Jr. filed the government's Response to the motion, stating that Mr. Diaz is not eligible for a sentence reduction because he was sentenced as a career offender, and the career offender guideline was not changed by U.S.S.G. Amendment 782. (ECF No. 111 at pp. 3-9).

In the Defendant's Reply Brief, Mr. Diaz's attorney Rosalind Lee conceded that he is not eligible for a sentence reduction based on U.S.S.G. Amendment 782, due to his career offender status. (ECF No. 112 at pp. 1-2).

Since Mr. Diaz remains a career offender, the retroactive amendments to the sentencing guidelines do not apply and this Court lacks jurisdiction to reduce his sentence. *United States v. Pleasant*, 704 F.3d 808, 812 (9th Cir. 2013); *United States v. Wesson*, 583 F.3d 728, 731 (9th Cir. 2009). For these reasons, Defendant's Motion to Reduce Sentence (ECF No. 97) is DENIED.

IT IS SO ORDERED.

DATED this 29th day of September, 2015.

S/Michael J. McShane  
**Michael J. McShane**  
**United States District Judge**